

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appln. No.:	10/692,468)	
)	<i>Confirmation No. 7253</i>
Applicants:	BAO et al.)	
)	
Filing Date:	October 22, 2003)	
)	This Interview Summary is being
Title:	Artificial Disc Device)	electronically filed on April 22, 2011 using
)	the USPTO's EFS-Web.
Art Unit:	3774)	
)	
Examiner:	Joshua Levine)	
)	
)	
Docket No.:	7115/79587)	
)	
Customer No.:	22242)	

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Sir:

Pursuant to the requirements of the Examiner's Interview Summary mailed on April 18, 2011, Applicants set forth this statement of the substance of the interview.

Applicants thank the Examiners for their courtesies extended during the phone interview conducted on April 13, 2011. The participants in the interview were Paul Henkelmann and Stephen Favakeh for the Applicants and Examiner Joshua Levine and Supervisory Examiner David Isabella. During the interview, the Examiner and Applicants' counsel discussed the rejection of claims 1, 33 and 42 under 35 U.S.C. §112(¶1). The Examiner indicated that this rejection would be removed in view of the support pointed out by Applicants' counsel in Figures 1-5.

Examiners and Applicants' counsel also discussed the distinctions of the invention over U.S. Patent Publication No. 2004/0030391 to Ferree. Applicants wish to clarify and supplement

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STATEMENT OF THE SUBSTANCE OF THE INTERVIEW dated April 22, 2011

Examiner's characterization of the novelty of the invention stated in the Interview Summary issued on 4/18/2011. Applicants believe that claim 1 is allowable over the cited references because they fail to teach or suggest a two-part spinal nucleus device having rigid upper and lower shells with smooth, flat outer surfaces for facing and non-invasively contacting the upper and lower vertebrae for sliding engagement therewith, and inner arcuate bearing surfaces of the upper and lower shells that each extend substantially entirely across the width of the respective shell bodies. Applicants believe that the structure of the claimed two-part spinal nucleus device, which creates three sliding interfaces, i.e., between the upper shell and the upper vertebra, the upper shell and lower shell, and the lower shell and lower vertebra, and includes inner bearing surfaces that have a widthwise size that is maximized, increases the range of motion of the shells along the respective vertebrae as the vertebrae move relative to each other while maintaining the load bearing support provided by the engaged inner bearing surfaces.

The Supervisory Examiner indicated that he would review the case more closely and would contact Applicants' counsel two weeks after the date of the interview to further discuss the Action. Applicants' counsel welcomes the opportunity for further discussion to help move the case towards allowance.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

Dated: April 22, 2011

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